

### **REMARKS**

Claims 1-16 are pending, of which claims 3, 4, 6, and 12 have been amended. No new matter has been added as a result of the above amendments. Reconsideration of the pending claims is respectfully requested in light of the foregoing amendments and the following remarks.

#### **Rejections under 35 U.S.C. §112, Second Paragraph**

Claims 3-4, 6, and 12 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner alleges that the claims contain limitations that are vague and indefinite. In response, Applicant has amended claims 3, 4, 6, and 12 to clarify the previously vague limitations, thereby obviating the rejection of those claims under 35 U.S.C. §112. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 3, 4, 6, and 12 under 35 U.S.C. §112, second paragraph.

#### **Rejections under 35 U.S.C. '102(e)**

Claims 1-16 stand rejected under 35 U.S.C. §102(e) as being anticipated by Kari et al. (US Patent No. 6,603,738 B1 hereinafter referred to as "Kari"). Applicant respectfully traverses the Examiner's position for the following reasons.

The PTO provides in MPEP § 2131 that

*"[t]o anticipate a claim, the reference must teach every element of the claim...."*

With regard to independent claims 1, 6, and 12, Applicant submits that Kari fails to teach every element of those claims. In particular, with regard to claim 1, Kari fails to teach or suggest a step of "applying a service marking to the packet dependent on the application associated with the packet". Contrary to the Examiner's assertions, Kari's provision of a separate queue for each simultaneous application and assigning packets to those queues based on the application with which the packet is associated does not anticipate applying a service marking to the packet. In particular, as fully described in paragraph 31 of the application, the claimed element enables any per-hop behaviors to be applied to packets on a per-application basis. The same cannot be said for Kari's queues. Accordingly, it is apparent that Kari does not anticipate claim 1, as it fails to teach every element thereof.

With regard to claim 6, Kari fails to teach or suggest “a table comprising an index including at least one key, each key having a record associated therewith, each record having a service marking therein, the node operable to interrogate the table with an identification of an application obtained from the packet, the service marking returned to the node upon a match between the identification and one of the keys.” Contrary to the Examiner’s assertion, the GPRS register and parameters stored therein, as disclosed by Kari, do not anticipate this element. In particular, the parameters stored in Kari’s GPRS register merely identify GPRS subscribers (col. 5, lines 36-38) and are not equivalent to the service markings stored in Applicant’s claimed table, which, as fully described in paragraphs 27, 29, and 31 of the present application, enable the provision of differentiated quality of service when written into packets. At best, the GPRS register and parameters of Kari constitute subscriber identifiers, but not service identifiers, as recited in pending claim 6. Accordingly, it is apparent that Kari does not anticipate claim 6, as it fails to teach every element thereof.

With regard to claim 12, Kari fails to teach or suggest a service node that is operable to interrogate a table with a query value indicative of an application to obtain a service marking therefrom for the reasons set forth above with respect to claim 6. Kari further fails to teach or suggest a service node that is operable “to write the service marking into a field of the packet, the node operable to transmit the packet across the telecommunication network” for the reasons set forth above with respect to claim 1. Moreover, Applicant respectfully traverses the Examiner’s position that Kari’s teaching of signaling quality of service to routers on the packet network by providing each packet with a code anticipates the claimed node operable to write the service marking into a field of the packet, the node operable to transmit the packet across the telecommunications network. In particular, the “codes” described by Kari cannot be viewed as being equivalent to Applicant’s “service markings” in view of the fact that the “service markings” are provided as a result of interrogation of Applicant’s table. Assuming, *arguendo* that Kari’s GPRS register is equivalent to Applicant’s table, then the result of the interrogation of the register is subscriber parameters, not the “code”. In fact, Kari is devoid of any explanation as to from where the code is obtained, while the present application is clear in that the claimed service markings are stored in a table that may be interrogated by the service node. In view of the foregoing, it is apparent that Kari does not anticipate claim 12, as it fails to teach every element thereof.

In view of the foregoing, it is apparent that the rejection of claims 1-16 under 35 U.S.C. §102(e) is not supported by Kari and should therefore be withdrawn.

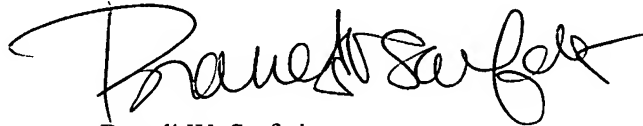
**Conclusion**

It is clear from all of the foregoing that claims 1, 6, and 12 are in condition for allowance. Claims 2-5, 7-11, and 13-16 depend from and further limit independent claims 1, 6, and 12 and are therefore also deemed to be in condition for allowance.

An early formal notice of allowance of claims 1-16 is requested.

Should the Examiner deem that an interview with Applicants' undersigned attorney would expedite consideration of the claims, the Examiner is invited to call the undersigned attorney at the telephone number indicated below.

Respectfully submitted,



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